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10/696,894	10/30/2003	Gary W. Ramsden	331235-00019	9250

27160 7590 01/29/2008  
PATENT ADMINISTRATOR  
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EAST LOBBY: SUITE 700  
WASHINGTON, DC 20007-5201

EXAMINER
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CASLER, TRACI

ART UNIT	PAPER NUMBER
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3629

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

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1 UNITED STATES PATENT AND TRADEMARK OFFICE

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4 BEFORE THE BOARD OF PATENT APPEALS  
5 AND INTERFERENCES  
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8 *Ex parte* GARY W. RAMSDEN  
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11 Appeal 2007-3141  
12 Application 10/696,894  
13 Technology Center 3600  
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16 Decided: January 29, 2008  
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19 Before TERRY J. OWENS, ANTON W. FETTING, and JOSEPH A. FISCHETTI,  
20 *Administrative Patent Judges*.

21 FETTING, *Administrative Patent Judge*.

22 DECISION ON REQUEST FOR REHEARING  
23

24 The Appellant filed a REQUEST FOR REHEARING PURSUANT TO 37  
25 C.F.R. § 14.52 on December 10, 2007.

26 The Examiner rejected claims 77, 79, and 80. We affirmed these rejections in  
27 our October 10, 2007 Decision. The Appellant seeks reconsideration of the  
28 decision to affirm these rejections.

1 We CONSIDER the arguments in the REQUEST FOR REHEARING, and  
2DENY the REQUEST FOR REHEARING.

3 ISSUES

4 The issue pertinent to this request is whether the Appellant has sustained his  
5burden of showing that we misapprehended the art or the claims and thus erred in  
6sustaining the rejections of claims. 37 C.F.R. § 41.52(a).

7 ANALYSIS

8 We found in our decision that claims 77, 79, and 80 were unpatentable under  
935 U.S.C. § 103(a) over the prior art (Decision 12).

10 The Appellant argues that (1) the Board failed to find that the prior art  
11described a printer for printing a shipping receipt for an amount including at least  
12the cost of delivering said parcel or envelope to said destination via the delivery  
13option chosen by said customer (Request 2); (2) the Board failed to find the level  
14of skill in the art at the time of the invention (Request 3); and (3) the Board  
15misconstrued the calculation of cost in FF 02 of the Decision (Request 4).

16 *Argument (1) the Board failed to find that the prior art described a printer for*  
17 *printing a shipping receipt for an amount including at least the cost of delivering*  
18 *said parcel or envelope to said destination via the delivery option chosen by said*  
19 *customer*

20 Apparently, the Appellant, after admitting that Pusic does describe a printer,  
21contends that the Board failed to make a finding that the printer printed a receipt  
22(Request 2: Bottom ¶, fifth to seventh lines).

1     However, the Appellant fails to explain, and we do not see how the finding of  
2this element affects the Board’s decision affirming the rejection of claim 77.  
3Regarding the teachings of Hsieh and Pusic, the Appellant does not contend that  
4we misapprehended Appellant’s arguments in the Brief.

5     As the Decision (p. 9) states, the Appellant only contended that Hsieh does not  
6compute costs based on the destination; that Pusic fails to describe a selectable  
7delivery option; that Hsieh teaches away from claim 77 because it is limited to  
8computations using two variables and there would be no reasonable expectation of  
9success in achieving the limitations of claim 77 for similar reasons; and there is no  
10suggestion to combine Hsieh and Pusic. The Appellant concluded that the  
11combination of Hsieh and Pusic do not allow for different delivery options or are  
12limited to delivery options whose pricing is independent of destination. We made  
13findings as to each of these contentions. The Appellant does not dispute this.

14     Thus, the Appellant did not disagree that Pusic disclosed printing a receipt *per*  
15*se*. The Examiner had made such a finding (Answer 4). We were not placed in a  
16position to consider the teachings of Hsieh or Pusic regarding printing of a receipt  
17*per se* with respect to claim 77, only the contents of what was printed. The  
18Examiner’s finding that a receipt was printed was uncontested.

19 *Argument (2) the Board failed to find the level of skill in the art at the time of the*  
20 *invention*

21     The Appellant contends that the Office’s guidelines require a finding of the  
22level of ordinary skill (Request 3). Again, the Appellant is making a contention

1 not made in the briefs, and has not argued that he did so, so we were not placed in  
2 a position to consider this argument.

3 The Appellant admits, however, that we did make such findings in FF 10  
4 (Request 3: Bottom ¶, second line). Further, the absence of specific findings on the  
5 level of skill in the art does not give rise to reversible error where the prior art itself  
6 reflects an appropriate level and a need for testimony is not shown. *See Okajima*  
7 *v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001).

8 *Argument (3) the Board misconstrued the calculation of cost in FF 02 of the*  
9 *Decision*

10 The Appellant contends that our construction of the limitation that a cost for  
11 mailing a parcel or envelope to a destination is a function of a weight and a  
12 selected delivery option is improper (Request 4). The Appellant contends that the  
13 Specification supports a construction in which cost is also a function of destination.  
14 (Request 4).

15 We begin by pointing out that the Examiner did not make a construction as to  
16 this limitation, and therefore, ours was the first construction placed in the record.

17 In our decision, we found that the plain reading of the limitation meant that the  
18 function was one of the two variables weight and delivery option (Decision 5: FF  
19 02). We find that the Appellant has not shown how this construction affects our  
20 Decision to affirm the Examiner, because the Appellant has not shown a nexus  
21 between this construction and an argument in favor of patentability. We also find  
22 that the Appellant has not demonstrated that such a construction does no more than  
23 reflect breadth of the claim as drafted. The Appellant has pointed to no

1lexicographic definition of the claimed function, nor how having the function be  
2independent of destination would be incompatible with the invention.

3 For the above reasons we are not convinced of misapprehension of the issues  
4leading to reversible error in our decision. Accordingly, the Appellant's request  
5for rehearing is denied,

6 DECISION

7 To summarize, our decision is as follows:

- 8 • We have considered the REQUEST FOR REHEARING
- 9 • We DENY the request that we reverse the Examiner as to claims
- 10 • The rejection of claims 77 and 80 under 35 U.S.C. § 103(a) as unpatentable  
11 over Hsieh and Pusic remains affirmed.
- 12 • The rejection of claim 79 under 35 U.S.C. § 103(a) as unpatentable over  
13 Hsieh, Pusic, and Tatenno remains affirmed.

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16 REHEARING DENIED

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21Patent Administrator

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